



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,304	09/29/2000	Neelakantan Sundaresan	AM9-99-0146	2605

48146 7590 03/28/2005
MCGINN & GIBB, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER

ALAUBAIDI, HAYTHIM J

ART UNIT	PAPER NUMBER
----------	--------------

2161

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/672,304

Applicant(s)

SUNDARESAN, NEELAKANTAN

Examiner

Haythim J. Alaubaidi

Art Unit

2161

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-23.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


FRANTZ COBY
PRIMARY EXAMINER

Continuation of 3. NOTE: The new issues are related to the amendment of claims 4, 12 and 20 as the location of the CDF file (residing on said server) was not disclosed in the claims before the current After -Final Amendment of February 08, 2005.

Continuation of 11. does NOT place the application in condition for allowance because:

a- Applicant argues on Page 10, Paragraphs 1, 2 and 3, that the Ronning reference is not combinable with the Yamane reference. The Examiner however respectfully disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the general knowledge available to an ordinary skilled in the art is the "need to suppresses the unnecessary acquisition on un-updated data items) which is found in Yamane, Col 2, Lines 17-21.

b- Applicant argues on Page 10, Paragraph 6, that the there are no teaching or suggestion to the underlined limitation of "time data that includes an actual time when the second file is scheduled to be updated". The Examiner however respectfully disagrees. This limitation was addressed in the previous Office Action mailed on March 5, 2004. . In edition the Examiner would like to direct the Applicant attention to Yamane's Figure No. 2 where the "actual time" for the next update is clearly indicated, for example, the file or the web page identified by the URL <http://www.a.co.jp> is scheduled to be updated at exactly 12:00 o'clock on June 1st.

c- Applicant argues on Page 11, that the Examiner did not address the "includes an actual time" of the limitation "time data that includes an actual time when the second file is scheduled to be updated" in March 05, 2004. The Examiner however respectfully disagrees.

- In the Amendment of December 22, 2003 the limitation reads as follow "time data indicates when said second file is scheduled t be updated";

- In the Examiner response to the Amendment of December 22, 2003 (Examiner response office action mailed on March 05, 2004), the Examiner addressed the limitation of "time data indicates when said second file is scheduled to be updated" by referencing "Yamane's Figure NO. 2, i.e. next update prediction time" the Examiner was referring to the time information listed in the two tables of Yamane's Figure No. 2, which in other words are actual time data.

- The Amendment of June 07, 2004 following the Examiner response of March 05, 2004) amended the limitation to reads as "time data includes an actual time when said second file is scheduled to be updated" (the Applicant added "includes an actual time").

- The Examiner then responded to the Applicant's amendment of June 07, 2004 with a Final Office Action mailed on December 08 2004 to the new amended limitation "time data includes an actual time when said second file is scheduled to be updated" by indicating that this limitation was addressed in the previous office action of March 05, 2004, and the reason why the Examiner stated that was due to the fact that the referenced figure of Yamane that was referenced by the Examiner in the previous office action of March 05, 2004 does indicate an actual time (please see Yamane, Figure No. 2) and since the Examiner interpretation to the "time data" was in fact interpreted as actual time....the Examiner indicated that this limitation was addressed in the previous office action of March 5, 2004 as the Examiner sees no reason to change the referenced figure because the referenced figure contains actual time and would still reads on the new amended claim. In addition, the Examiner also referenced (Yamane, Col 5, Lines 48-56) in the Final Office Action of December 08, 2004 Page 6, Line 12 in regard to setting a time and date to for the update, which also reads on the Applicant's limitation.

d- Applicant argues on Page 14, regarding Claims 2, 9 and 18, that Ronning does not teach the limitations of "the second file being the same as the first file". The Examiner however respectfully disagrees. The Examiner was interpreting this limitation as the second file is an update version to the first file in light of the combination of both Claims 1 and 2, "update" by default is a new inquiry relating to the same file or object. In addition, The Examiner also referenced Yamane, as teaching this limitation of "the second file being the same as the first file" which was found in (Yamane, figure No. 2, i.e. the HT1 record).

e- Applicant argues on Page 13, Paragraph 3, regarding Claims 4, 12 and 20, that Ronning does not teach a channel definition file in Figure No. 17, and that this information does not reside on the server according to the claimed limitations . The Examiner however respectfully disagrees. Figure No. 17 does contain tags relating to the records which was addresses in Foot Note No. 2, according to the Specification of the current Application. In addition, the limitations of Claims 4, 12 and 20, does not address the location of such information..